

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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MONDAY, OCTOBER 25, 1999

MISC. ORDER
99-08

BY THE COURT:

Associate Justice Coleman A. Blease is appointed as Acting Presiding Justice to discharge the duties described in Rules 75, 76, 77 and 78 of the California Rules of Court during the absence of the Presiding Justice from the court for the period of November 5, 1999, through November 10, 1999, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

Dated: October 25, 1999

SCOTLAND, P.J.

At 9:29 a.m., the court met in the Library & Courts Building for a continuation of court calendar session.

PRESENT: SIMS, Acting Presiding Justice
 MORRISON, Associate Justice
 HULL, Associate Justice

Bailiff: Rios.
Calendar called.

Civil ROBERT C. NEWMAN II
No. v.
C026284 BOARD OF PSYCHOLOGY et al.

Cause called. Russerll Iungerich argued for Plaintiff-Appellant. Heidi R. Weisbaum, Deputy Attorney General argued for Defendants-Respondents. Cause submitted. (Consolidated with C028353)

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Civil ROBERT C. NEWMAN II
No. v.
C028353 BOARD OF PSYCHOLOGY et al.

Cause called. Russerll Iungerich argued for Plaintiff-Appellant-X-respondent. Heidi R. Weisbaum, Deputy Attorney General argued for Defendants-Respondents-X-Appellant. Cause submitted. (Consolidated with C028284)

At 9:59 a.m., court recessed. At 10:00 a.m., court reconvened with the same panel except Associate Justice Callahan in place of Associate Justice Hull.

Civil JIM HARD et al.
No. v.
C031380 CALIFORNIA STATRE EMPL

Cause called. Christopher W. Katzenbach, of Katzenbach and Khtikian argued for Plaintiffs-Appellants. Jason Rabinowitz, of Beeson, Tayer & Bodine argued for Defendant-Respondent. Cause submitted.

At 10:31 a.m., court recessed. At 10:40 a.m., court reconvened with the Acting Presiding Justice Davis, Associate Justice Nicholson, and Associate Justice Hull.

Crim. THE PEOPLE
No. v.
C030383 GREGORY MICHAEL PAULEY

Cause called. Paul M. Wellenkamp argued for Defendant-Appellant. Judy Kaida, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

At 11:05 a.m., court recessed. At 11:07 a.m., court reconvened with the same panel except Associate Justice Kolkey in place of Associate Justice Nicholson.

Crim. THE PEOPLE
No. v.
C029999 RONALD EDWARD CAUDLE

Cause called. Deborah Tullelman, court appointed counsel argued Defendant-Appellant. Craig S. Meyers, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

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At 11:40 a.m., court recessed. At 2:00 p.m., court reconvened with the same panel except Associate Justice Callahan in place of Associate Justice Kolkey.

Crim. THE PEOPLE

No. v.

C028412 JOSHUA TOBIAS ORTEGA

Cause called. John R. Duree, Jr. argued for Defendant-Appellant. Wayne K. Strumpfer, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

Crim. THE PEOPLE

No. v.

C027198 ELIZAR IBARROLA

Cause called. Sandra Gillies, court appointed counsel argued for Defendant-Appellant. Wayne K. Strumpfer, Deputy Attorney General argued for Plaintiff-Respondent with additional citations. Cause submitted.

At 2:30 p.m., court recessed. At 2:35 p.m., court reconvened with Acting Presiding Justice Nicholson, Associate Justice Nicholson, and Associate Justice Kolkey.

Crim. THE PEOPLE

No. v.

C028819 FREDERICK RAYMOND TATUM

Cause called. Candace Hale, court appointed counsel. argued for Defendant-Appellant. Eric L. Christoffersen, Deputy Attorney argued for Plaintiff-Respondent with additional citations. Cause submitted.

At 3:10 p.m., court recessed. At 3:12 p.m., court reconvened with the Acting Presiding Justice Nicholson, Associate Justice Raye, Associate Justice Hull.

Crim. THE PEOPLE

No. v.

C027215 RAYMOND CURTIS et al.

Cause called. David McNeil, Morse, court appointed counsel argued for Defendant-Appellant Raymond Curtis. Michael J. Weinberger, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

Court adjourned at 3:43 p.m., until 9:30 a.m., Monday, November 15, 1999

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Crim. THE PEOPLE (Not for Publication)
No. v.
C029873 FRANK WILLIAM RAVISCIONI

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: RAYE, J.
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C028958 GREGORY ADONIS MURPHY

The judgment is reversed.

CALLAHAN, J.

We concur: BLEASE, Acting P.J.
RYAE, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C031725 ROGER DAMIAN HAMILTON

The judgment is affirmed.

RAYE, J.

We concur: BLEASE, Acting P.J.
DAVIS, J.

Civil VAUGHN B. MOURADIAN et al.
No. v.
C031112 ELEANOR WATSON et al.

The judgment is affirmed. Plaintiffs shall recover their costs on
appeal.

SIMS, Acting P.J.

I concur: CALLAHAN, J.
I dissent. ... KOLKEY, J.

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Civil LEON AARON DRISS
No. v.
C031528 SUPERIOR COURT OF SACRAMENTO COUNTY
 MEDICAL BOARD OF CALIOFORNIA

The alternative writ is discharged and the petition for writ of
mandate is denied.

BLEASE, Acting P.J.

We concur: DAVIS, J.
 KOLKEY, J.

Civil Matter of the GRISSOM Trust
Nos. GLORENCE L. GRISSON, an Incompetent Person etc.
C028974 v. (Not for Publication)
C029056 WARREN T. GRISSON
C029778

Civil Conservatorship of the Person and Estate of FLORENCE L. GRISSOM
No. VERDINE DUNHAM, Conservator, etc.
C029785 v.
 WARREN T. GRISSOM

Civil Estate of WARREN A. GRISSOM, Deceased.
No. FLORENCE L. GRISSOM, an Incompetent Person etc.
C031272 v.
 WARREN T. GRISSOM

The appeal in C028974 is dismissed as moot. The appeal in
C029056 is dismissed for want of an appealable order. The judgment and
orders in C029778, C029785, and C031272 are affirmed. The respondent
shall recover costs of appeal in all appeals.

DAVIS, J.

We concur: SCOTLAND, P.J.
 RAYE, J.

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Juvenile In re RAQUEL G., a Person Coming Under the Juvenile Court Law.
No. THE PEOPLE
C031816 v. (Not for Publication)
RAQUEL G.
BY THE COURT:

Dated: October 26, 1999

SCOTLAND, P.J.

It is ordered that the opinion filed herein on September 30, 1999, is hereby modified as follows:

This modification does not affect the judgment.

SIMS. Acting P.J.
DAVIS, J.
RAYE, J.

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Crim. THE PEOPLE (Not for Publication)
No. v.
C027694 ROBERT WILLIAM HOWELL

The judgment is modified to award defendant the presentence credits as stated in part II of this opinion and to specify a \$200 fine pursuant to section 1202.45 only in case No. 97-4676. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy thereof to the Department of Corrections.

KOLKEY, J.

We concur: SCOTLAND, P.J.
 DAVIS, J.

Juvenile In re DANIEL H. et al., Persons Coming Under the Juvenile Court Law.
No. v.
C033206 ANNIE H.
 BY THE COURT:

No claim of error having been raised by appellant Annie H., the appeal filed July 21, 1999, is dismissed as abandoned. (In re Sade C. (1996) 13 Cal. 4th 952, 9994.)

Dated: October 26, 1999

SCOTLAND, P.J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C030334 TERRY LAMONT CALDER

The judgment is modified to provide for a concurrent midterm of four years for personal use of a firearm in connection with the midterm of five years imposed for defendant's assault with a firearm conviction. The trial court is directed to prepare an amended abstract of judgment accordingly and to forward a certified copy to the Department of Corrections. In all other respects, the judgment is affirmed.

NICHOLSON, Acting P.J.

We concur: MORRISON, J.
 CALLAHAN, J.

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I concur: BLEASE, Acting P.J.
I concur in the judgment and disposition but respectfully disagree with the
views expressed by my colleagues on the issue of judicial notice. ...
RAYE, J.

Civil JESSE C. RALPH (Not for Publication)
No. v.
C030525 NICHOLAS RODRIGUEZ
 The judgment is affirmed.

BLEASE, Acting P.J.

We concur: DAVIS, J.
 RAEY, J.

Civil SACRAMENTO BREWING CO., INC.
No. v. (Certified for Publication)
C029428 DESMOND, MILLER & DESMOND et al.

The judgment is affirmed. Respondents shall recover their
costs on appeal.

KOLKEY, J.

We concur: SCOTLAND, P.J.
 BLEASE, J.

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WEDNESDAY, OCTOBER 27, 1999

Juvenile In re DESHAUNDRA S., a Person Coming Under the Juvenile Court Law.
No. HUMAN SERVICES AGENCY
C033508 v.
 THEDIA S.
 BY THE COURT:

No claim of error having been raised by appellant Thedia S., the
appeal filed August 25, 1999, is dismissed as abandoned. (In re Sade C.
(1996) 13 Cal. 4th 952, 994.)

Dated: October 27, 1999

SCOTLAND, P.J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C032699 DESIREE E. PEARSON

The judgment is affirmed.

DAVIS, J.

We concur: SCOTLAND, P.J.
 MORRISON, J.

Juvenile In re ARIEL G. et al., Persons Coming Under the Juvenile Court Law.
 (Not for Publication)
No. SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN
 SERVICES
C032606 v.
 ROSIE G.

The order terminating appellant's parental rights is affirmed.

HULL, J.

We concur: SCOTLAND, J.
 NICHOLSON, J.

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Juvenile JONNIE S. (Not for Publication)
No. v.
C033474 THE SUPERIOR COURT OF SAN JOAQUIN
 SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY et al.

The petition is granted in part and denied in part. The juvenile court is directed to provide an additional six months of services to petitioner only as to the children Joslyn and Harley. The request for stay is denied as moot.

SIMS, Acting P.J.

We concur: MORRISON, J.
 KOLKEY, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C030816 KARANGA TOWNS

The judgment is affirmed.

HULL, J.

We concur: SCOTLAND, P.J.
 NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C031575 TANNON CARADINE

The judgment is affirmed.

HULL, J.

We concur: SCOTLAND, P.J.
 NICHOLSON, J.

Crim. TH EPEOPLE (Not for Publication)
No. v.
C031395 FERMIN ANDREW OLGUIN

The judgment is affirmed.

HULL, J.

We concur: SCOTLAND, P.J.
 NICHOLSON, J.

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We concur: DAVIS, J.
 CALLAHAN, J.

We concur: SIMS, Acting P.J.
 CALLAHAN, J.

We concur: BLEASE, Acting P.J.
 RAYE, J.

We concur: DAVIS, J.
 CALLHAN, J.

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Crim. THE PEOPLE (Not for Publication)
No. v.
C026864 ENRIQUE OQUENDO
Crim. THE PEOPLE
No. v.
C026866 JESUS JESSE ORONA
THE COURT:

It is ordered that the opinion filed herein on September 27, 1999, be modified as follows:

...

There is no change judgment.

The petition for rehearing is denied.

THE COURT:

SIMS, Acting P.J.
NICHOLSON, J.
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C028961 SHAWN DEMAR GREEN
The judgment is affirmed.

SIMS, Acting P.J.

We concur: DAVIS, J.
RAYE, J.

Civil KOID A. STARKS (Not for Publication)
No. v.
C031587 COUNTY OF SAN JOAQUIN
The judgment is affirmed.

SIMS, J.

We concur: BLEASE, Acting P.J.
NICHOLSON, J.

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Civil HARBANS SINGH DHILLON et al
No. v. (Not for Publication)
C030143 QUALITY LOAN SERVICE CORP.

The judgment for plaintiffs is affirmed. The matter is remanded to the trial court with directions to enter a new award of damages consistent with the views expressed in this opinion. Plaintiffs are awarded their costs on appeal.

HULL, J.

We concur: BLEASE, Acting P.J.
 MORRISON, J.

Crim., THE PEOPLE
No. v.
C031882 MARK STEVEN SCHRAM et al.
 BY THE COURT:

The court having examined the record on appeal and having determined that the judgments appealed from are nonappealable, the appeals filed February 16, 1999, and February 22, 1999, are dismissed. (see Cal. Pen Code §§ 1235, 1466, 1471; Cal. Rules of Court, rules 61 to 63.)

Dated: October 29, 1999

SCOTLAND, P.J.

**MINUTES OF THE COURT OF APPEAL
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THURSDAY, OCTOBER 28, 1999**

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Civil MARYANTHIA WILLHITE
No. v.
C033229 LUCKY STORES, INC. et al.
BY THE COURT:

The court having examined the record on appeal and having determined that the order appealed from is a non-appealable order, the appeal filed July 23, 1999, is dismissed. (See *Moedica v. Merin* (1991) 234 Cal. App. 3d 1072.)

Dated: October 28, 1999

SIMS, Acting P.J.

Crim. THE PEOPLE
No. v.
C032057 MARY ELIZABETH HODGE
BY THE COURT:

Pursuant to the written request of the appellant, the appeal filed March 8, 1999, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal Rules of Court, rule 38.)

Dated: October 28, 1999

SCOTLAND, P.J.

Civil SIMON PINHAS et al.
No. v.
C032349 MEDICAL BOARD OF CALIFORNIA
BY THE COURT:

Pursuant to the written request of the appellant Simon Pinhas, the appeal filed April 13, 1999, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 19(b).)

Dated: October 28, 1999

BLEASE, Acting P.J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C029962 JOSEPH ANTONY MARQUEZ
The judgment is affirmed.

DAVIS, J.

We concur: SIMS, Acting P.J.
 RAYE, J.

Crim. THE PEOPLE (Not for Publication)

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No. v.
C030532 JOSEPH WHITNEY COMO
The judgment is affirmed.

DAVIS, J.

We concur: BLEASE, Acting P.J.
RAYE, J.

Civil ASSURANCE COMPANY OF AMERICA
No. v. (Not for Publication)
C029148 RONALD R. HAVEN et al.

The judgment is affirmed. Haven's protective cross-appeal is dismissed. Costs to Haven.

DAVIS, J.

We concur: BLEASE, Acting P.J.
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C031502 ABEL ROJAS-GUZMAN

The judgment is affirmed.

MORRISON, J.

We concur: NICHOLSON, Acting P.J.
CALLAHAN, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C027019 JAMES QUINCY JAMERSON

The judgment is modified to award defendant a total of 234 days good-time/work-time credit in addition to the 1,123 days awarded for his actual presentence custody. As modified, the judgment is affirmed. The clerk of the superior court is directed to prepare an amended abstract of judgment and to forward a certified of the amended abstract to the Department of Corrections.

NICHOLSON, J.

We concur: SCOTLAND, P.J.
SISM, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C031808 BRIAN LEE RETTAMN

The judgment is affirmed.

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DAVIS, J.

We concur: SIMS, Acting P.J.
 NICHOLSON, J.

Juvenile TERESA R. (Not for Publication)
No. v.
C033500 SUPERIOR COURT OF PLACER COUNTY
 PLACER COUNTY DEPARTMENT OF HEALTH AND HUMAN
 SERVICES ET AL.

Let a peremptory writ of mandate issue, directing respondent juvenile court to vacate its orders terminating reunification services and scheduling a section 366.26 hearing, and to enter a new order directing DHHS to provide petitioner with an additional six months of reunification services. The stay issued previously is dissolved.

SCOTLAND, P.J.

We concur: NICHOLSON, J.
 HULL, J.

Civil STEPHEN SZATKOSKI (Not for Publication)
No. v.
C030682 BAXTER HEALTHCARE CORPORATION

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: NICHOLSON, J.
 HULL, J.

Civil TIFFANY P. (Not for Publication)
No. v.
C028167 ALBERTSON'S INC.

The judgment is affirmed.

SCOTLAND, P.J.

We concur: CALLAHAN, J.
 HULL, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C028275 SONGII EARL PRUITT

The judgment is affirmed.

SCOTLAND, P.J.

We concur: SIMS, J.
 CALLAHAN, J.

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Crim. THE PEOPLE (Not for Publication)

No. v.

C031718 JERRY JUSTIN BABB

The judgment is affirmed.

MORRISON, J.

We concur: NICHOSLON, Acting P.J.
CALLAHAN, J.

Crim. THE PEOPLE

No. v.

C031656 ROBERT BUDMARK

The judgment is modified to award defendant 42 days of custody credit. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.

BLEASE, Acting P.J.

We concur: DAVIS, J.
RAYE, J.

Crim. THE PEOPLE (Not for Publication)

No. v.

C026181 STEVEN ALLEN DEAY

The sentence enhancements stayed by the trial court are stricken. As modified, The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting the modification and to forward a certified copy thereof to the Department of Corrections.

SCOTLAND, P.J.

I concur: SIMS, J.

I concur in the result.

MORRISON, J.

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Crim. THE PEOPLE (Not for Publication)
No. v.
C027000 JEFFREY NORTON et al.

The order of dismissal is reversed; the cause is remanded to the trial court with directions to enter a new and different order defendants' motion to dismiss, and then to proceed according to law.

MORRISON, J.

I concur: SCOTLAND, P.J.

I concur in the result:

BLEASE, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C029157 FRANK RICHARD FERNANDES

The order of probation is affirmed.

SCOTLAND, P.J.

We concur: SIMS, J.

CALLAHAN, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C028888 JOHN DAVID GANN

The judgment is affirmed.

CALLAHAN, J.

We concur: RAYE, Acting P.J.

MORRISON, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C030488 WAYNE EVAN MORRIS

The sentence imposed on count 5 (Veh. Code, §2800.2), is hereby stayed (§ 654). The judgment otherwise is affirmed. The trial court shall prepare an amended abstract of judgment showing such stay and shall forward a copy of the same to the Department of Corrections.

SIMS, J.

We concur: BLEASE, Acting P.J.

RAYE, J.

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We concur: SCOTLAND, P.J.
MORRISON, J.

CALLAHAN, J.

We concur: SIMS, Acting P.J.
 DAVIS, J.

v. (Not for Publication)

MORRISON, J.

We concur: NICHOLSON, Acting P.J.
 CALLAHAN, J.

MORRISON, J.

We concur: SCOTLAND, P.J.
NICHOLSON, J.

**MINUTES OF THE COURT OF APPEAL
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Crim. THE PEOPLE (Not for Publication)
No. v.
C027464 TIMOTHY COON

The convictions on counts I-IV are reversed. The stay of execution of sentence (Pen. Code, § 654) on count V is vacated, In all other respects the judgment is affirmed. The trial court is directed to prepare and forward to the Department of Corrections a new abstract of judgment.

MORRISON, J.

We concur: DAVIS, Acting P.J.
 RAYE, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C030064 TIMOTHY MARTIN et al.

The convictions of conspiracy to commit car jacking are reversed. With that exception the judgments as to conviction are affirmed. The matter is remanded to the trial court for resentencing pursuant to the request of the Attorney General.

BELASE, Acting P.J.

We concur: NICHOLSON, J.
 RAYE, J.

Civil JULIE ANN MOULLET
No. v. (Not for Publication)
C028742 KAMPS PROANE, INC.

The judgment is affirmed.

CALLAHAN, J.

We concur: BLEASE, Acting P.J.
 SIMS, J.

Civil BALBIR DHILON
No. v. (Not for Publication)
C031695 ROSE KAREN LUM

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: SCOTLAND, P.J.
 MORRISON, J.

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Crim. THE PEOPLE (Not for Publication)
No. v.
C029881 MARTINS NNADI NWOKE

The judgment is affirmed.

HULL, J.

We concur: SCOTLAND, P.J.
BLEASE, J.

Civil ROBERT C. NEWMAN II
No. v. (Not for Publication)
C026284 BOARD OF PSYCHOLOGY et al.
Civil ROBERT C. NEWMAN , II
No. v.
C028353 BOARD OF PSYCHOLOGY et al.

The award of investigative costs to the BBS is reversed. In all other respects the judgment in favor of the BBS is affirmed. The order remanding to the Board is vacated. The Board and the BBS shall recover their costs on appeal.

MORRISON, J.

We concur: SIMS, Acting P.J.
HULL, J.

CIVIL In re the Marriage of BEVERLY AND JOSEPH P. VONA, JR.
No. BEVERLY J. VONA (Not for Publication)
C029887 v.
C030133 JOSEPH P. VONA JR.

In C0298877, the order is affirmed. In C030133, the appeal is dismissed.

NICHOLSON, J.

We concur: SCOTLAND, P.J.
MORRISON, J.

Crim. THE PEOPLE
No. v. (Not for Publication)
C028520 JOHN DAIVD HARRELL

The judgment is affirmed.

NICHOLSON, J.

We concur: SCOTLAND, P.J.
KOLKEY, J.

Civil ART PULASKI et al. (CERTIFIED FOR PUBLICATION)

**MINUTES OF THE COURT OF APPEAL
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No. v.
C028525 CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD
AMERICAN TRUCKING ASSOCIATIONS, INC. et al.
AMERICAN FEDERATION OF LABOR AND CONGRESS OF
INDUSTRIAL ORGANIZATIONS

The judgment is reversed. The cause is remanded to the trial court to enter a new judgment granting and denying the petitions in accordance with the views expressed here. Upon finality of this opinion, the stays previously ordered are vacated and the petitions for writ of supersedeas are dismissed. Each party shall bear its own costs on appeal. (Certified for Publication)

CALLAHAN, J.

We concur: SCOTLAND, P.J.
DAVIS, J.

Civil No.
C033609 MANCHESTER-POINT ARENA BAND OF POMO INDIANS
v.
SUPERIOR COURT OF SUTTER COUNTY
SUTTER COUNTY DEPARTMENT OF HUMAN SERVICES.

Let peremptory writ of mandate issue, directing respondent juvenile court to vacate its order that petitioner withdraw from the dependency proceeding, and to conduct further proceedings in compliance with the Act. The stay previously issued is dissolved. The parties shall bear their own costs. (Cal. Rules of Court, rule 56.4 (a_.))

SCOTLAND, P.J.

We concur NICHOLSON, H.
HULL, J.